

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

LONNIE SMITH, JR.

PLAINTIFF

v.

No. 2:20-CV-02158

SIMMONS PREPARED FOODS, INC.

DEFENDANT

ORDER

This case was filed September 2, 2020, alleging violations of overtime provisions of the Fair Labor Standards Act and Arkansas Minimum Wage Act. The deadline to file a motion to certify a class or collective action passed on March 15, 2021, and this matter proceeds as an individual claim by Plaintiff Lonnie Smith, Jr.

On April 8, 2021, the Court received an ex parte communication (Doc. 26) from Mr. Smith directly, rather than through counsel. At the direction of the Court, the Clerk docketed that communication with access restricted to the Court and parties. Thereafter, the Court received a string of ex parte emails from Mr. Smith at its chambers email address. Those emails are included as exhibits to this order. It appears from the emails that Mr. Smith attempted to fire his attorneys, but that his attorneys have instead negotiated a settlement with Defendant and are directing Mr. Smith to sign the settlement documents. Mr. Smith subsequently brought another email communication to the Clerk for physical filing (Doc. 27). Mr. Smith's attorneys have also filed status reports (Docs. 28 and 29) keeping the Court informed of their attempts to communicate with Mr. Smith. The most recent of those reports indicates they have not yet been able to directly discuss this matter with him.

It appears to the Court that Mr. Smith does not want to pursue his claims at this time, and is not maintaining a level of communication with his attorneys that is necessary for the diligent

prosecution of this action. If Mr. Smith wants to continue with his claims, he is ordered to show cause why this case should not be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. Any response is due by May 14, 2021.

IT IS SO ORDERED this 3rd day of May, 2021.

/s/ P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE